

REMARKS**Status of the Claims**

Claims 1, 3, 5-7, and 21-22 are currently present in the Application, and claims 1 and 21-22 are independent claims. Claims 1 and 21-22 have been amended, no claims have been canceled, and no claims have been added.

Applicants are not conceding that the subject matter encompassed by claims 1-24, prior to this amendment, are not patentable over the art cited by the Examiner. Claims 1 and 21-22 were amended in this response solely to facilitate expeditious prosecution of this Application. Applicants respectfully reserve the right to pursue claims, including the subject matter encompassed by claims 1-24 as presented prior to this Amendment, and additional claims in one or more continuing applications.

Examiner Interview

Applicants note with appreciation the telephonic interview conducted between Applicants' representative and the Examiner on September 18, 2008. During the telephonic interview, the Examiner and Applicants' representative discussed one of the 103 references (Nandigama, et al., U.S. Patent Pub. 2004/0010441). In particular, Applicants' representative discussed that Applicants' invention generates phase goals for a product lifecycle using a "top-down" approach by utilizing a top-level weighted priority for determining an amount of phase goals in which to generate for a corresponding common metric. In contrast, Nandigama teaches that each manager within a division may apply their own weighted priority to an already generated goal. Applicants' representative suggested amending independent claim 1 to further describe Applicants' top-down approach to phase goal generation. No agreement was reached regarding the claims.

Claim Rejections Under 35 U.S.C. § 112

Claims 1, 3, 5-7, 21, and 22 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the

subject matter which Applicants regard as the invention. Independent claims 1 and 21-22 have been amended in this response accordingly and Applicants request the removal of the 112 rejection to claims 1, 3, 5-7, 21, and 22 in the next Office communication.

Claim Rejections Under 35 U.S.C. § 101

Claims 1, 3, 5-7, 21, and 22 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Independent claims 1 and 21-22 have been amended accordingly in this response and Applicants request the removal of the 101 rejection to claims 1, 3, 5-7, 21, and 22 in the next Office communication.

Claim Rejections – Alleged Obviousness Under 35 U.S.C. § 103

Claims 1, 3, 5-7, and 21-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Corral (U.S. Patent Pub. 2003/0188290, hereinafter “Corral”) in view of Nandigama, et al. (U.S. Patent Pub. 2004/0010441, hereinafter “Nandigama”) in view of Vouk (“Software Reliability Engineering,” hereinafter “Vouk”). Applicants respectfully traverse these rejections.

Applicants have amended independent claim 1 to further describe Applicants top-down approach to phase goal generation. Support for such amendment may be found in Applicants' specification on page 7, lines 8-10; page 16, lines 15-17, and on page 17, line 19 through page 19, line 8. Therefore, no new matter is added with such amendment. As amended, independent claim 1 is a computer-implemented method with limitations comprising:

- identifying a plurality of product phases that correspond to a product lifecycle;
- selecting a common metric from a plurality of common metrics, wherein the selected common metric is applicable to each of the plurality of product phases;
- identifying a weighted priority of the selected common metric;

- for each of the plurality of product phases, utilizing a processor to generate an amount of phase goals for the selected common metric, wherein the amount of the phase goals generated for each of the plurality of product phases is dependent upon the weighted priority of the selected common metric;
- applying the generated number of phase goals for each of the plurality of product phases to their corresponding plurality of product phases; and
- executing each of the plurality of product phases using their corresponding generated number of phase goals.

Applicants claim that a common metric's weighted priority for generating phase goals is applied to different product phases of a product lifecycle using a "top-down" approach. Applicants compute the weighted priority from customer feedback and apply the common metric, along with its weighted priority, to the different product phases of the product lifecycle. As such, Applicants generate an amount of phase goals for each of the product phases based upon the common metric's weighted priority. For example, if a selected common metric has a higher weighted priority relative to other common metrics, Applicants generate more corresponding phase goals for the selected metric for each product phase.

In contrast, Nandigama teaches that 1) goals are generated first; 2) questions are then applied to the goals; and 3) metrics are then applied to the questions. Nandigama's Figure 1 shows a graphical representation of Nandigama's teachings. Nandigama also states:

"By mapping the questions to the goals and then mapping the goals to the metrics, a reproducible process is defined that allows organizations to standardize the decision process for determining which metrics to use to achieve goals of the organization." (col. 3, para. 31, emphasis added)

As a result, Nandigama never teaches or suggests *"... generate an amount of phase goals for the selected common metric, wherein the amount of the phase goals generated for each of the plurality of product phases is dependent upon the weighted priority of the selected common metric"* as claimed by Applicants due to

the fact that Nandigama generates goals **before** Nandigama generates questions or metrics.

In addition, Nandigama teaches that each manager within a division receives a high-level goal, but each manager applies different questions and different weighed priorities to the high level goals. For example, a company may have "reliability" as a high level goal and, in this example, a "planning phase" manager may apply a weighted priority of "2" to the reliability goal while a "design phase" manager may apply a "7" to the reliability goal. Nandigama states:

"In addition, the database allows for multiple managers of a division to assign a relevance factor to metrics and questions." (col. 3, paragraph 31)

Furthermore, Nandigama's Figure 1 shows that multiple metrics are associated with a single goal. Therefore, Nandigama never teaches or suggests applying a single weighted priority for a particular goal across each product phase in order to generate phase goals. Therefore, Nandigama never teaches or suggests ***"for each of the plurality of product phases, utilizing a processor to generate an amount of phase goals for the selected common metric, wherein the amount of the phase goals generated for each of the plurality of product phases is dependent upon the weighted priority of the selected common metric"*** as claimed by Applicants. The Office Action does not suggest that Corral or Vouk teach such limitation and, indeed, neither Corral nor Vouk teach such limitation. Therefore, since Corral, Nandigama, or Vouk do not teach or suggest, either alone or in combination with each other, all the limitations included in Applicants' claim 1 as amended, amended claim 1 is allowable over Corral in view of Nandigama in view of Vouk.

Independent claims 21-22 include limitations similar to claim 1 and, therefore, are allowable over Corral in view of Nandigama in view of Vouk for at least the same reasons that claim 1 is allowable over Corral in view of Vouk as discussed above.

Each of claims 3 and 5-7 each depend, either directly or indirectly, upon allowable independent claim 1. Therefore, each of claims 3 and 5-7 are allowable for at

least the same reasons that claim 1 is allowable over Corral in view of Nandigama in view of Vouk as discussed above.

Conclusion

As a result of the foregoing, it is asserted by Applicants that the remaining claims in the Application are in condition for allowance, and Applicants respectfully request an early allowance of such claims.

Applicants respectfully request that the Examiner contact the Applicants' attorney listed below if the Examiner believes that such a discussion would be helpful in resolving any remaining questions or issues related to this Application.

Respectfully submitted,

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